

John Lawson  
Executive Vice President  
Policy and Strategic Initiatives



December 11, 2008

The Honorable Michael J. Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Commissioner Copps:

As you know, ION has encountered great resistance in securing carriage of our pro-social digital channels, qubo and ION Life, from cable multi-system operators. One cable MSO, Charter Communications, has dropped even our main channel, ION Television, from nearly 500,000 homes on its systems that are outside of our must-carry markets. From our standpoint as a broadcaster that is trying to secure distribution of programming that serves the public interest, it is clear that the television marketplace is broken.

One step that could help open the marketplace is adoption of Chairman Martin's proposal to reform the programming discrimination complaint process under Section 616 of the Cable Act of 1992. ION cannot afford to spend millions of dollars in legal fees over months and years on the cumbersome process in place today. Our analysis (see attached) indicates that administrative reform would provide an avenue in seeking fair treatment of our children's programming, for example, and it also could prevent drops of our main channel in non-broadcast markets.

Reform of the Section 616 complaint process would not solve the challenges that ION faces in securing carriage of our digital channels. It would, however, be a step in the right direction. For that reason, we urge you to support reform of the programming complaint process at the December 18 open meeting.

As always, we remain ready to explore any other options to help ensure that the American public has access to socially responsible programming.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Lawson", written over a light blue horizontal line.

John M. Lawson

Cc: Rick Chessen  
Attachment

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**ION MEDIA NETWORKS, INC.**

**PROGRAM CARRIAGE REFORM IS NEEDED TO  
PROTECT VIEWERS OF ION AND OTHER INDEPENDENT NETWORKS**

*The program carriage rules protect independent programmers from discrimination.*

- Congress intended Section 616 and the FCC's program carriage rules to promote competition in the video programming marketplace and to protect the diversity of programming choices available to the American public. The Commission's rules therefore protect independent programmers and their viewers from MVPDs that unfairly use their bottleneck power as distributors to reduce programming diversity.
- Among other violations, Section 616 prohibits MVPDs from discriminating against independent networks in order to advantage MVPD-affiliated networks with which they compete.
- The FCC's rules allow any "video programming vendor" to bring a program carriage complaint and to obtain relief from an MVPD's violations.

*ION is a video programming vendor.*

- Under the FCC's rules, a video programming vendor is an entity that "produc[es], creat[es], or . . . distribut[es] video programming for sale." Other than the ION network programming offered on all of its stations, ION also produces two specialized networks: qubo, a children's network, and ION Life, a network dedicated to health and wellness.
- ION offers qubo and ION Life for sale under carriage agreements like those traditionally used by cable networks, not pursuant to the FCC's broadcast signal carriage rules. ION Television programming is also available on similar terms to MVPDs in communities where ION does not own a broadcast station. All of these networks offer high-quality, family-friendly programming that serves the public interest.
- Although ION may negotiate for carriage agreements that do not involve license fee payments, such agreements still involve the "sale" of the networks for the purpose of the Commission's program carriage rules because ION always seeks to obtain consideration – including non-monetary terms of economic value to ION – in exchange for the sale of its programming to MVPDs.

*MVPDs have discriminated against ION in carriage negotiations.*

- Although ION has approached MVPDs to negotiate carriage of its networks on commercially reasonable terms, many MVPDs that own competing networks resist agreeing to terms comparable to the affiliated networks or even refuse to negotiate for carriage at all.

*The FCC must reform its complaint process in order for Section 616 to meaningfully protect independent programmers and their viewers.*

- The ongoing proceedings to resolve program carriage complaints that were brought more than a year ago illustrate the need for reform. Even though the Media Bureau directed an ALJ to resolve the complaints within 60 days, the proceedings are unlikely to be concluded for months after that deadline.
- While a complaint is pending, an MVPD can refuse to carry an independent network or drop a network it is already carrying. This delay therefore harms viewers and can threaten the economic support necessary to maintain an independent network.
- As the existing cases show, the FCC's existing complaint process is broken. The procedure is rife with uncertainty and provides no assurance that an MVPD's violations will be addressed in a timely manner. These basic protections are needed for the FCC's program carriage regulations to meaningfully protect viewers and independent programmers and ensure continued diversity and competition in the video programming market.